

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

DARRYL JACKSON and DWJ PETROLEUM,)
)
 Plaintiffs,)
)
 v.) No. 06 C 3676
)
PAUL CERPA, etc., et al.,)
)
 Defendants.)

MEMORANDUM ORDER

On August 31, 2006 Cerpa ("Cerpa"), having answered Counts II and III of the Complaint filed against him by Darryl Jackson and his wholly-owned corporation DWJ Petroleum, Inc., filed a Fed. R. Civ. P. ("Rule") 12(b)(6) motion to dismiss Complaint Count I. This Court entered and continued that motion on its September 7 date of presentment, with the understanding that if plaintiffs did not agree to the dismissal (based on the Seventh Circuit caselaw cited by Cerpa) they would file a response by October 3.

Silence has descended on the motion, with plaintiffs neither having said "We surrender, dear" nor having filed the required response. Cerpa is right in having invoked Coyne-Delaney Co. v. Capital Dev. Bd., 616 F.2d 341 (7th Cir. 1980) and 717 F.3d 385, 388-89 (7th Cir. 1983). Cerpa's motion to dismiss Complaint Count I is accordingly granted.



Milton I. Shadur
Senior United States District Judge

Date: October 17, 2006